

CHAPTER 12
DISCIPLINE

[Prior to 5/4/88, see 470—135.201 to 470—135.215, and 470—135.301]

653—12.1(272C) General. The board has authority to impose discipline for any violation of Iowa Code chapters 147, 148, 272C or the rules promulgated thereunder.

653—12.2(272C) Method of discipline. The board has authority to impose the following disciplinary sanctions:

1. Revocation of license.
2. Suspension of license until further order of the board or for a specified period.
3. Nonrenewal of license.
4. Prohibit permanently, until further order of the board or for a specified period, the engaging in specified procedures, methods or acts.
5. Probation.
6. Require additional education or training.
7. Require a reexamination.
8. Order a physical or mental examination, or order alcohol or drug screening within a time specified by the board.
9. Impose civil penalties not to exceed \$10,000.
10. Issue citation and warning.
11. Such other sanctions allowed by law as may be appropriate.

653—12.3(272C) Discretion of board. The following factors may be considered by the board in determining the nature and severity of the disciplinary sanction to be imposed:

1. The relative seriousness of the violation as it relates to assuring the citizens of this state a high standard of professional care.
2. The facts of the particular violation.
3. Any extenuating circumstances or other countervailing considerations.
4. Number of prior violations or complaints.
5. Seriousness of prior violations or complaints.
6. Whether remedial action has been taken.
7. Such other factors as may reflect upon the competency, ethical standards and professional conduct of the licensee.

653—12.4(272C) Grounds for discipline. The board may impose any of the disciplinary sanctions set forth in rule 12.2(272C), including civil penalties in an amount not to exceed \$10,000, when the board determines that the licensee is guilty of any of the following acts or offenses:

12.4(1) Fraud in procuring a license. Fraud in procuring a license includes, but is not limited to, an intentional perversion of the truth in making application for a license to practice medicine and surgery, osteopathic medicine and surgery or osteopathy in this state, and includes false representations of a material fact, whether by word or by conduct, by false or misleading allegations, or by concealment of that which should have been disclosed when making application for a license in this state, or attempting to file or filing with the board or the Iowa department of public health any false or forged diploma, or certificate or affidavit or identification or qualification in making an application for a license in this state.

12.4(2) Professional incompetency. Professional incompetency includes but is not limited to:

- a.* A substantial lack of knowledge or ability to discharge professional obligations within the scope of the physician's or surgeon's practice;
- b.* A substantial deviation by the physician from the standards of learning or skill ordinarily possessed and applied by other physicians or surgeons in the state of Iowa acting in the same or similar circumstances;
- c.* A failure by a physician or surgeon to exercise in a substantial respect that degree of care which is ordinarily exercised by the average physician or surgeon in the state of Iowa acting in the same or similar circumstances;
- d.* A willful or repeated departure from or the failure to conform to the minimal standard of acceptable and prevailing practice of medicine and surgery, osteopathic medicine and surgery or osteopathy in the state of Iowa.

12.4(3) Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of a profession or engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established.

- a.* Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of a profession includes, but is not limited to, an intentional perversion of the truth, either orally or in writing, by a physician in the practice of medicine and surgery, osteopathic medicine and surgery or osteopathy, and includes any representation contrary to their legal or equitable duty, trust or confidence and is deemed by the board to be contrary to good conscience, prejudicial to the public welfare and may operate to the injury of another.
- b.* Engaging in unethical conduct includes, but is not limited to, a violation of the standards and principles of medical ethics and code of ethics set out in rules 653—13.10(147,148,272C) and 653—13.11(147,148,272C), as interpreted by the board.
- c.* Practice harmful or detrimental to the public includes, but is not limited to, the failure of a physician to possess and exercise that degree of skill, learning and care expected of a reasonable, prudent physician acting in the same or similar circumstances in this state or when a physician is unable to practice medicine with reasonable skill and safety to patients as a result of a mental or physical impairment or chemical abuse.
- d.* Practice harmful or detrimental to the public includes, but is not limited to, the use of a rubber stamp to affix a signature to a prescription. A person who is unable, due to a physical handicap, to make a written signature or mark, however, may substitute in lieu of a signature a rubber stamp which is adopted by the handicapped person for all purposes requiring a signature and which is affixed by the handicapped person or affixed by another person upon the request of the handicapped person and in their presence.
- e.* Practice harmful or detrimental to the public includes, but is not limited to, the practice of maintaining any prescribed prescription which is intended to be completed and issued at a later time.

12.4(4) Habitual intoxication or addiction to the use of drugs. Habitual intoxication or addiction to the use of drugs includes, but is not limited to, the inability of a physician to practice medicine and surgery, osteopathic medicine and surgery or osteopathy with reasonable skill and safety by reason of the excessive use of alcohol, drugs, narcotics, chemicals or other type of material on a continuing basis, or the excessive use of alcohol, drugs, narcotics, chemicals or other type of material which may impair a physician's ability to practice the profession with reasonable skill and safety.

12.4(5) Conviction of a felony related to the profession or occupation of the licensee, or the conviction of any felony that would affect the licensee's ability to practice within a profession. A copy of the record of conviction or plea of guilty shall be conclusive evidence.

Conviction of a felony related to the profession or occupation of the licensee or the conviction of any felony that would affect the licensee's ability to practice within a profession includes, but is not limited to, the conviction of a physician who has committed a public offense in the practice of their profession which is defined or classified as a felony under state or federal law, or who has violated a statute or law designated as a felony in this state, another state, or the United States, which statute or law relates to the practice of medicine and surgery, osteopathic medicine and surgery or osteopathy, or who has been convicted of a felonious act, which is so contrary to honesty, justice or good morals, and so reprehensible as to violate the public confidence and trust imposed upon a physician in this state.

12.4(6) Fraud in representations as to skill or ability. Fraud in representations as to skill or ability includes, but is not limited to, a physician having made misleading, deceptive or untrue representations as to the physician's competency to perform professional services for which the physician is not qualified to perform by training or experience.

12.4(7) Use of untruthful or improbable statements in advertisements. Use of untruthful or improbable statements in advertisement includes, but is not limited to, an action by a physician in making information or intention known to the public which is false, deceptive, misleading or promoted through fraud or misrepresentation and includes statements which may consist of, but are not limited to:

1. Inflated or unjustified expectations of favorable results.
2. Self-laudatory claims that imply that the physician is a skilled physician engaged in a field or specialty of practice for which the physician is not qualified.
3. Representations that are likely to cause the average person to misunderstand; or
4. Extravagant claims or to proclaim extraordinary skills not recognized by the medical profession.

12.4(8) Willful or repeated violations of the provisions of these rules and Iowa Code chapters 147 and 148. Willful or repeated violations of the provisions of these rules and chapters 147 and 148 include, but are not limited to, a physician's having intentionally or repeatedly violated a lawful rule or regulation promulgated by the board of medical examiners or the Iowa department of public health or violated a lawful order of the board or the Iowa department of public health in a disciplinary hearing or has violated the provisions of Title VIII (Practice Acts), Code of Iowa, as amended.

12.4(9) Violating a statute or law of this state, another state, or the United States, without regard to its designation as either felony or misdemeanor, which statute or law relates to the practice of medicine.

12.4(10) Failure to report a license revocation, suspension or other disciplinary action taken by a licensing authority of another state, territory or country within 30 days of the final action by such licensing authority. A stay by an appellate court shall not negate this requirement; however, if such disciplinary action is overturned or reversed by a court of last resort, such report shall be expunged from the records of the board.

12.4(11) Failure of a licensee or an applicant for licensure in this state to report any voluntary agreement to restrict the practice of medicine and surgery, osteopathic medicine and surgery or osteopathy entered into in another state, district, territory or country.

12.4(12) Knowingly aiding, assisting, procuring, or advising a person to unlawfully practice medicine and surgery, osteopathic medicine and surgery or osteopathy.

12.4(13) Being guilty of a willful or repeated departure from, or the failure to conform to, the minimal standard of acceptable and prevailing practice of medicine and surgery, osteopathic medicine and surgery or osteopathy in which proceeding actual injury to a patient need not be established; or the committing by a physician of an act contrary to honesty, justice or good morals, whether the same is committed in the course of their practice or otherwise, and whether committed within or without this state.

12.4(14) Inability to practice medicine and surgery, osteopathic medicine and surgery or osteopathy with reasonable skill and safety by reason of a mental or physical impairment or chemical abuse.

12.4(15) Willful or repeated violation of lawful rule or regulation adopted by the board.

12.4(16) Violating a lawful order of the board, previously entered by the board in a disciplinary or licensure hearing, or violating the terms and provisions of a consent agreement or informal settlement between a licensee and the board.

12.4(17) Being adjudged mentally incompetent by a court of competent jurisdiction. Such adjudication shall automatically suspend a license for the duration of the license unless the board orders otherwise.

12.4(18) Making suggestive, lewd, lascivious or improper remarks or advances to a patient.

12.4(19) Indiscriminately or promiscuously prescribing, administering or dispensing any drug for other than lawful purpose. Indiscriminately or promiscuously prescribing, administering or dispensing includes, but is not limited to:

a. The prescribing, administering or dispensing for the treatment of obesity any stimulant anorectic agent classified as Schedule II in Iowa Code section 124.206, or Schedule IIN of the Federal Controlled Substance Act. An anorectic agent includes, but is not limited to:

(1) Amphetamine, its salts, optical isomers, and salts of its optical isomers, as a single agent or in combination with other agents.

(2) Methamphetamine, its salts, and salts of isomers, as a single agent or in combination with other agents.

(3) Phenmetrazine and its salts, as a single agent or in combination with other agents.

(4) Methylphenidate as a single agent or in combination with other agents.

(5) Any other stimulant anorectic agents added to the above schedules.

b. Reserved.

12.4(20) Knowingly submitting a false report of continuing education or failure to submit the annual report of continuing education.

12.4(21) Failure to notify the board within 30 days after occurrence of any judgment or settlement of a malpractice claim or action.

12.4(22) Failure to comply with a subpoena issued by the board.

12.4(23) Failure to file the reports required by rule 12.12(272C) concerning acts or omissions committed by another licensee.

12.4(24) Willful or repeated gross malpractice.

12.4(25) Willful or gross negligence.

12.4(26) Obtaining any fee by fraud or misrepresentation.

12.4(27) Failure to meet the acceptable and prevailing standard of care when delegating or supervising medical services provided by another physician, health care practitioner, or other individual who is collaborating with or acting as an agent, associate, or employee of the physician responsible for the patient's care, whether or not injury results.

12.4(28) Violating any of the grounds for the revocation or suspension of a license listed in Iowa Code sections 147.55 and 148.6.

12.4(29) Failure to comply with the recommendations issued by the Centers for Disease Control of the United States Department of Health and Human Services for preventing transmission of human immunodeficiency virus and hepatitis B virus to patients during exposure-prone invasive procedures, or with the recommendations of the expert review panel established pursuant to Iowa Code section 139C.2(3), and applicable hospital protocols established pursuant to Iowa Code section 139C.2(1).

12.4(30) Noncompliance with a support order or with a written agreement for payment of support as evidenced by a certificate of noncompliance issued pursuant to 1995 Iowa Acts, chapter 115. Disciplinary proceedings initiated under this subrule shall follow the procedures set forth in Iowa Code chapter 252J.

12.4(31) Failure to transfer medical records to another physician in a timely fashion when legally requested to do so by the subject patient or by a legally designated representative of the subject patient.

12.4(32) Improper management of medical records, including failure to maintain timely, accurate, and complete medical records.

This rule is intended to implement Iowa Code sections 148.6, 148.7, and 272C.3 to 272C.5.

653—12.5(272C) Procedure for peer review. A complaint made to the board by any person relating to licensure or concerning the professional conduct of a licensee may be assigned to a peer review committee for review, investigation and report to the board.

653—12.6(272C) Peer review committees.

12.6(1) The board may establish and register peer review committees.

12.6(2) The board shall determine which peer review committee will review a case and what complaints or other matters shall be referred to a peer review committee for investigation, review, and report to the board.

12.6(3) The board may provide investigatory and related services to peer review committees upon request.

12.6(4) Members of the peer review committees shall not be liable for acts, omissions or decisions made in connection with service on the peer review committee. However, such immunity from civil liability shall not apply if such act is done with malice.

653—12.7(272C) Duties of peer review committee.

12.7(1) The peer review committees shall observe the requirements of confidentiality imposed by Iowa Code section 272C.6.

12.7(2) The peer review committees shall thoroughly investigate all complaints and make written recommendations to the board.

a. Written recommendations shall contain a statement of facts, the recommendation for disposition, and the rationale supporting the recommendation.

b. The written recommendations shall be signed by the members of the peer review committees concurring in the report.

c. If the peer review committee finds that it is unable to investigate the complaint, the complaint shall be returned together with an explanation to the board.

These rules are intended to implement Iowa Code sections 272C.3 and 272C.4.

653—12.8(272C) Board review of recommendations. The board shall consider and act upon the recommendations of the peer review committees at the next board meeting held after submission of the written recommendations, provided that the peer review report is received by the board 20 days prior to the next scheduled board meeting.

These rules are intended to implement Iowa Code sections 272C.3 and 272C.4.

653—12.9(272C) Reporting of judgments or settlements. Each licensee shall report to the board every adverse judgment in a malpractice action to which the licensee is a party, and every settlement of a claim against the licensee alleging malpractice. The report together with a copy of the judgment or settlement must be filed with the board within 30 days from the date of said judgment or settlement.

653—12.10(272C) Investigation of reports of judgments and settlements. Reports received by the board from the commissioner of insurance, insurance carriers and licensees involving adverse judgments in a professional malpractice action, and settlement of claims alleging malpractice, which involve acts or omissions which constitute negligence, careless acts or omissions in the practice of medicine and surgery, osteopathic medicine and surgery or osteopathy, shall be reviewed and investigated by the board in the same manner as is prescribed in these rules for the review and investigation of written complaints.

653—12.11(272C) Mandatory reporting.

12.11(1) Definitions. For the purposes of this rule, the following definitions apply.

“*Knowledge*” means any information or evidence of reportable conduct acquired by personal observation, from a reliable or authoritative source, or under circumstances causing the licensee to believe that wrongful acts or omissions may have occurred.

“*Reportable conduct*” means wrongful acts or omissions that may constitute a basis for disciplinary action under this chapter or any state law or administrative rule that gives the board jurisdiction over the conduct of a licensee.

12.11(2) Reporting requirement. A report shall be filed with the board when a licensee has knowledge as defined in this rule that another person licensed by the board may have engaged in reportable conduct.

a. The report shall be filed with the board no later than 30 days from the date the licensee acquires knowledge of the reportable conduct.

b. The report shall contain the name and the address of the licensee who may have engaged in the reportable conduct, the date, time, place and circumstances in which the conduct occurred, and a statement explaining how knowledge of the reportable conduct was acquired.

c. The final determination of whether or not wrongful acts or omissions have occurred is the responsibility of the board.

d. No licensee is required to report information deemed to be a confidential communication as a result of a physician-patient relationship or which is prohibited by state and federal statute.

653—12.12(272C) Failure to report. Failure to report knowledge of wrongful acts or omissions in accordance with rule 12.11(272C) within the required 30-day period shall constitute a basis for the initiation of a board disciplinary action against the licensee who failed to report.

653—12.13(272C) Immunities. A person shall not be civilly liable as a result of filing a report or complaint with the board or peer review committee, or for the disclosure to the board or its agents or employees, whether or not pursuant to a subpoena of records, documents, testimony or other forms of information which constitute privileged matter concerning a recipient of health care services or some other person, in connection with proceedings of a peer review committee, or in connection with duties of the board. However, such immunity from civil liability shall not apply if such act is done with malice.

653—12.14(272C) Doctor-patient privileged communications. The privilege of confidential communication between the recipient and the provider of health care services shall not extend to afford confidentiality to medical records maintained by or on behalf of the subject of an investigation by the board, or records maintained by any public or private agency or organization, which relate to a matter under investigation. No provisions of Iowa Code section 622.10, except as it relates to an attorney of the licensee, or stenographer or confidential clerk of the attorney, shall be interpreted to restrict access by the board, its staff or agents to information sought in an investigation being conducted by the board.

653—12.15(272C) Confidentiality of investigative files. Complaint files, investigation files, and all other investigation reports and other investigative information in the possession of the board or peer review committee acting under the authority of the board or its employees or agents which relates to licensee discipline shall be privileged and confidential, and shall not be subject to discovery, subpoena, or other means of legal compulsion for their release to any person other than the licensee and the board, its employees and agents involved in licensee discipline, or be admissible in evidence in any judicial or administrative proceeding other than the proceeding involving licensee discipline. However, a final written decision and finding of fact of the board in a disciplinary proceeding shall be public record.

653—12.16(272C) Impaired physician review committee. Pursuant to the authority of Iowa Code section 272C.3(1)“k,” the board establishes the impaired physician review committee.

12.16(1) Definitions.

“*Approved evaluating facility*” means a hospital, agency, or other program approved by the IPRC pursuant to subrule 12.16(11).

“*Approved treatment provider*” means a physician, counselor, or other individual approved by the IPRC pursuant to subrule 12.16(17).

“*Impaired physician recovery contract*” or “*contract*” means the written document establishing the terms for participation in the impaired physician recovery program prepared by the impaired physician review committee.

“*Impairment*” means an inability to practice with reasonable safety and skill as a result of alcohol or drug abuse, dependency, or addiction, or any neuropsychiatric or physical disorder or disability.

“*Initial agreement*” means the written document establishing the initial terms for participation in the impaired physician recovery program.

“*IPRP*” or “*program*” means the impaired physician recovery program.

“*IPRC*” or “*committee*” means the impaired physician review committee.

“*Self-report*” means the licensee providing written or oral notification to the board that the licensee has been or may be diagnosed as having an impairment prior to the board’s receiving a complaint or report alleging the same from a second party.

12.16(2) Purpose. The impaired physician review committee evaluates, assists, monitors and, as necessary, makes reports to the board on the recovery or rehabilitation of physicians who self-report impairments.

12.16(3) Composition of the committee. The chairperson of the board shall appoint the members of the IPRC. The membership of the IPRC includes, but is not limited to:

- a. Executive director of the board or the director’s designee from the board’s staff;
- b. One physician who has remained free of addiction for a period of no less than two years since successfully completing a board-approved recovery program and board-ordered probation for drug or alcohol dependency, addiction, or abuse;
- c. One practitioner with expertise in substance abuse/addiction treatment programs;
- d. One physician with expertise in the diagnosis and treatment of neuropsychiatric disorders and disabilities; and
- e. One public member.

12.16(4) Eligibility. To be eligible for participation in the impaired physician recovery program, a licensee must self-report an impairment or suspected impairment directly to the office of the board. A licensee is deemed ineligible to participate in the program if the board or committee finds evidence of any of the following:

- a. The licensee engaged in the unlawful diversion or distribution of controlled substances or illegal substances to a third party or for personal profit or gain;
- b. At the time of the self-report, the licensee is already under board order for an impairment or any other violation of the laws and rules governing the practice of the profession;
- c. The licensee has caused harm or injury to a patient;
- d. There is currently a board investigation of the licensee that concerns serious matters related to the ability to practice with reasonable safety and skill or in accordance with the accepted standards of care;
- e. The licensee has been subject to a civil administrative or criminal sanction, or ordered to make reparations or remuneration by a government or regulatory authority of the United States, this or any other state or territory or a foreign nation for actions that the committee determines to be serious infractions of the laws, administrative rules, or professional ethics related to the practice of medicine; or
- f. The licensee failed to provide truthful information or to fully cooperate with the board or committee.

12.16(5) Type of program. The impaired physician recovery program is an individualized recovery or rehabilitation program designed to meet the specific needs of the impaired physician. The committee, in consultation with the licensee and upon the recommendation of an IPRC-approved evaluator, shall determine the type of recovery or rehabilitation program required to treat the licensee's impairment. The committee shall prepare an impaired physician recovery contract, to be signed by the licensee, that shall provide a detailed description of the goals of the program, the requirements for successful completion, and the licensee's obligations therein.

12.16(6) Terms of participation. A licensee shall agree to comply with the terms for participation in the IPRP established in the initial agreement and contract. Terms of participation specified in the contract shall include, but are not limited to:

a. *Duration.* The length of time a licensee shall participate in the program shall be determined by the committee in accordance with the following:

- (1) Participation in the program for licensees impaired as a result of chemical dependency or alcohol or substance abuse or addiction is set at a minimum of four years.
- (2) Length of participation in the program for licensees with impairments resulting from neuropsychiatric or physical disorders or disabilities will vary depending upon the recommendations for treatment provided by a qualified evaluator designated by the committee to establish an appropriate treatment protocol.

b. *Noncompliance.* A licensee participating in the program is responsible for notifying the committee of any instance of noncompliance including, but not limited to, a relapse. Notification of noncompliance made to the IPRC by the licensee, any person responsible for providing or monitoring treatment, or another party shall result in the following:

- (1) First instance. Upon receiving notification of a first instance of noncompliance including, but not limited to, a relapse, the IPRC shall make a report to the board that includes recommendations as to whether treatment should be augmented or formal charges should be filed.
- (2) Second instance. Upon receiving notification of a second instance of noncompliance including, but not limited to, a relapse, the IPRC shall nullify the contract and refer the case to the board for the filing of formal charges or other appropriate action.

c. Practice restrictions. The IPRC may impose restrictions on the license to practice medicine as a term of the initial agreement or contract until such time as it receives a report from an approved evaluator that the licensee is capable of practicing with reasonable safety and skill. As a condition of participating in the program, a licensee is required to agree to restrict practice in accordance with the terms specified in the initial agreement or contract. In the event that the licensee refuses to agree to or comply with the restrictions established in the initial agreement or contract, the committee shall refer the licensee to the board for appropriate action.

12.16(7) Limitations. The IPRC establishes the terms and monitors a participant's compliance with the program specified in the initial agreement and contract. The IPRC is not responsible for participants who fail to comply with the terms of or successfully complete the IPRP. Participation in the program under the auspices of the IPRC shall not relieve the board of any duties and shall not divest the board of any authority or jurisdiction otherwise provided. Any violation of the statutes or rules governing the practice of medicine by a participant shall be referred to the board for appropriate action.

12.16(8) Confidentiality. The IPRC is subject to the provisions governing confidentiality established in Iowa Code section 272C.6. Accordingly, information in the possession of the board or the committee about licensees in the program shall not be disclosed to the public. Participation in the IPP under the auspices of the IPRC is not a matter of public record.

12.16(9) Evaluating facilities. As of April 1, 1999, the physician who self-reports an impairment and is determined by the IPRC to be in need of evaluation shall undergo a comprehensive multidisciplinary evaluation at an evaluating facility approved by the IPRC in accordance with subrules 12.16(10) to 12.16(13).

12.16(10) Standards for approval of evaluating facilities. A hospital, agency, or other program shall be approved by the IPRC as an approved evaluating facility if each of the following requirements is satisfied:

a. The evaluation process is directed by a licensed physician and involves a multidisciplinary team including psychologists, social workers, addiction counselors, or other therapists who are licensed or certified in their discipline.

b. The evaluation process is an objective, measurable program which utilizes appropriate tools and testing procedures.

c. The evaluation process involves an inpatient or an intensive outpatient component.

d. The evaluation includes a complete medical history and physical examination.

e. The evaluation includes a psychiatric evaluation and mental status examination, including neuropsychiatric or psychiatric testing as indicated.

f. The evaluation includes a comprehensive chemical use history.

g. The evaluation includes urine screening or blood alcohol screening, or both, with legal chain of custody and forensic capability protocol.

h. The evaluation includes a family and social history with corroboration from at least two sources.

i. The evaluation culminates in the formulation of an evaluation report which includes specific diagnoses and recommendations for corrective action.

j. The facility has substantial experience in the evaluation of impaired physicians and others with similar professional backgrounds.

k. The facility is certified or registered as an alcoholism program or drug treatment program by the appropriate state agency or is accredited by the Joint Commission on Accreditation of Healthcare Organizations (JCAHO).

12.16(11) Procedure for approval. A hospital, agency, or other program which meets the standards for approval and seeks to be designated as an approved evaluating facility shall apply on an application form provided by the IPRC. In addition to evaluating the application, the IPRC or its designee may conduct an on-site inspection of the hospital, agency, or other program. If approved by the IPRC, such hospital, agency, or other program shall be designated as an approved evaluating facility.

12.16(12) Notification of changes. An approved evaluating facility shall notify the IPRC of the following changes prior to the change's becoming effective, and any such change may result in reevaluation of approval status:

- a. Transfer of ownership of the facility;
- b. Change in location of the facility; or
- c. Any substantial change in policies and procedures, treatment philosophy, or quality management.

12.16(13) Review of approved evaluating facilities. The IPRC may at any time reevaluate an approved evaluating facility. Upon evidence that the facility has failed to meet the requirements of subrule 12.16(10) or for good cause, the IPRC may revoke the approval.

12.16(14) Postapproval. In the event an impaired physician undergoes a comprehensive multidisciplinary evaluation at a facility which has not been approved by the IPRC, the physician shall submit evidence to the IPRC that the facility which performed the evaluation substantially meets the qualifications as defined by subrule 12.16(10). In the event the IPRC determines that the facility does not substantially meet the qualifications as defined by subrule 12.16(10), the IPRC shall require that the physician undergo a comprehensive multidisciplinary evaluation at an approved facility.

12.16(15) Treatment providers. As of April 1, 1999, all physicians, counselors, or other individuals providing treatment to a physician pursuant to an impaired physician program shall be approved for such purpose by the IPRC in accordance with subrules 12.16(16) to 12.16(18).

12.16(16) Standards for approval of treatment providers. A physician, counselor, or other individual shall be approved by the IPRC as an approved treatment provider if each of the following requirements is satisfied:

- a. The provider is licensed by the appropriate licensing board and has not been disciplined by the licensing board for a violation which concerns serious matters related to the provider's ability to practice with reasonable safety and skill.
- b. The provider has not been convicted of violating any federal or state law pertaining to furnishing or using narcotics or illegal substances.
- c. The provider has demonstrated education, training, and expertise in the treatment of substance abuse or other impairments.
- d. The philosophy and individualized treatment plan of the provider is based on the disease concept.
- e. The chemical dependency model of treatment is based on a 12-step addiction recovery model such as Alcoholics Anonymous.
- f. The provider has treated impaired physicians and others with similar professional backgrounds. The provider encourages peer support and frequent contact with vocationally focused peer support groups.

g. The provider has a network of referral agencies or professionals to meet the needs of the impaired physician and significant others in the event the needs go beyond the provider's expertise or available facilities.

h. The provider involves the family and significant others of the impaired physician in appropriate aspects of treatment.

i. The provider agrees to execute the treatment provider agreement of the IPRC with respect to each impaired physician to whom treatment is provided.

12.16(17) Procedure for approval. A physician, counselor, or other individual who meets the standards for approval and seeks to be designated as an approved treatment provider shall apply on an application form provided by the IPRC. In addition to evaluating the application, the IPRC or its designee may conduct an on-site inspection of the offices of the physician, counselor, or other individual. If approved by the IPRC, such physician, counselor, or other individual shall be designated as an approved treatment provider.

12.16(18) Review of approved treatment provider. The IPRC may at any time reevaluate an approved provider. Upon evidence that the provider has failed to meet the requirements of subrule 12.16(16) or for good cause, the IPRC may revoke the approval.

12.16(19) Appeal. In the event of a denial or revocation of approval of an evaluating facility or treatment provider, the applicant or approved facility or provider shall have the right to request a hearing before the IPRC. The request must be sent within 20 days after the receipt of the notification of denial or revocation. The hearing shall be conducted by the IPRC and the final decision shall be rendered by the IPRC.

12.16(20) Board orders for physician evaluation or treatment. In cases where the board of medical examiners orders a physician to be evaluated for an impairment, the physician shall be evaluated only at an evaluating facility approved by the IPRC under this chapter. In cases where the board of medical examiners orders a physician to undergo treatment or counseling for an impairment from a physician, counselor, or other individual, such treatment providers shall be approved by the IPRC under this chapter.

Rules 12.1(272C) to 12.16(272C) are intended to implement Iowa Code sections 147.55, 148.6, 272C.3, 272C.4, 272C.6, 272C.8, and 272C.9.

653—12.17 to 12.49 Reserved.

DISCIPLINARY PROCEDURE

653—12.50(147,148,17A,272C) Disciplinary procedure.

12.50(1) *Proceedings.* The proceeding for revocation or suspension of a license to practice medicine and surgery, osteopathic medicine and surgery, or osteopathy or to discipline a person licensed to practice medicine and surgery, osteopathic medicine and surgery, or osteopathy or the denial of a license, shall be substantially in accord with the following procedures which are an alternative to or in addition to the procedures stated in Iowa Code sections 147.58 through 147.71, 148.6 through 148.9.

12.50(2) *Investigations.* The board shall, upon receipt of a complaint, or upon its own motion, review and investigate alleged acts or omissions which the board reasonably believes constitute cause under applicable law or administrative rule for licensee discipline. Complaints received relating to physician supervision of physician assistants shall be copied or summarized and forwarded to the board of physician assistant examiners.

12.50(3) *Form and content of the complaint.* The complaint shall be made in writing, orally, or in any other form deemed acceptable by the board. A form provided by the board may be used. The form may be obtained from the office of the board upon request. The complaint shall contain the following information:

1. The full name and address of the complainant except in instances in which the identity of the complainant is unknown.
2. The full name, address and telephone number, if known, of the physician.
3. A clear and accurate statement of the facts that fully apprises the board of the allegations against the physician.

12.50(4) *Place and time of filing of the complaint.* The complaint may be delivered in person, by telephone, other telecommunications or electronic devices, or by mail to the executive director of the board. The current office address is: Iowa Board of Medical Examiners, Executive Hills West, 1209 East Court Avenue, Des Moines, Iowa 50319-0180.

Timely filing is required in order to ensure the availability of witnesses and to avoid initiation of an investigation under conditions which may have been significantly altered during the period of delay.

12.50(5) *Investigation of allegations.* For the board to determine if probable cause exists to file a statement of charges, the executive director shall direct compliance staff to conduct an investigation of the allegations made in the complaint. The executive director may refer the complaint directly to a registered peer review committee or medical expert for investigation or consultation.

Prior to the commencement of a contested case proceeding, the licensee who is the subject of the complaint shall be contacted by the executive director, an investigator, a medical expert consulting with the agency, or peer review committee, and offered the opportunity to respond to the allegations made in the complaint. Contact with the licensee and the licensee's response to the allegations may be made in writing or through a personal interview or conference.

12.50(6) *Investigation report.* Upon completion of the investigation, the executive director or designee shall prepare a report for the board's consideration, which report shall contain the position or defense of the respondent, discuss jurisdiction and set forth any legal arguments and authorities that appear applicable to the case. The report shall be concluded with a recommendation as to whether probable cause exists for further proceedings.

12.50(7) *Informal settlement.* The executive director or the respondent may request that an informal conference be held to determine whether licensee discipline can be resolved in a just manner and in furtherance of the public interest. Neither the executive director nor respondent is required to use this informal procedure. If the executive director and respondent agree to negotiate a settlement, the various points of a proposed settlement, including a stipulated statement of facts, shall be set forth in writing. Negotiations for a proposed settlement shall be completed at least seven days prior to the hearing date set by the order for hearing. Except, the executive director shall have power to grant additional time after consultation with the board chairperson (or a member designated by the chairperson) for continued negotiations in instances where additional time will clearly lead to a satisfactory settlement prior to the hearing date. The proposed settlement shall be binding if approved by the board and signed by both the board chairperson (or a member designated by the chairperson) and the respondent.

12.50(8) *Ruling on the initial inquiry.*

a. Rejection. If a determination is made by the board to reject the case, the complaint shall be returned to the complainant along with a statement specifying the reasons for rejection. A letter of explanation concerning the decision of the board shall be sent to the respondent.

b. Requirement of further inquiry. If determination is made by the board to order further inquiry, the complaint and recommendations by the investigator(s) shall be returned to the investigator(s) along with a statement specifying the information deemed necessary.

c. Acceptance of the case. If a determination is made by the board to initiate disciplinary action the board may enter into an informal settlement, issue a citation or warning or recommend formal disciplinary proceedings. Prior to the initiation of formal disciplinary action in matters involving the supervision of physician assistants the board shall, before initiating such action, forward a copy of the investigative report to the board of physician assistant examiners for its advice and recommendations. The board of physician assistant examiners shall respond within six weeks, or sooner if the issues warrant it. The board shall consider the advice and recommendations of the board of physician assistant examiners.